

SENATE BILL 411

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 39; Title 47; Title 49; Title 62; Title 63 and
Title 68, relative to vapor products.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-4-121, is amended by adding the following language as a new subsection:

For purposes of this section, “smoking” does not include the creation of vapor from the use of a vapor product as defined in § 39-17-1503.

SECTION 2. Tennessee Code Annotated, Section 39-17-1501, is amended by deleting the section and substituting the following:

This part shall be known and may be cited as the “Prevention of Youth Access to Tobacco and Vapor Products Act.”

SECTION 3. Tennessee Code Annotated, Section 39-17-1502(b), is amended by deleting the language “electronic cigarettes” wherever it appears and substituting the language “vapor products”.

SECTION 4. Tennessee Code Annotated, Section 39-17-1503, is amended by deleting subdivision (4) and by adding the following, appropriately designated language:

() “Vapor product”:

(A) Means any noncombustible, tobacco-derived product containing nicotine, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution contained in a vapor cartridge as well as

any vapor cartridges containing liquid nicotine solution that can be used with or in a vapor product; and

(B) Does not include any products regulated under Chapter V of the Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.);

SECTION 5. Tennessee Code Annotated, Section 39-17-1503(10), is amended by deleting the subdivision and substituting the following:

(10) “Tobacco product”:

(A) Means any product that contains tobacco and is intended for human consumption, including, but not limited to, cigars, cigarettes, and bidis; and

(B) Does not mean a vapor product.

SECTION 6. Tennessee Code Annotated, Section 39-17-1504, is amended by deleting the language “tobacco product” wherever it appears and substituting the language “tobacco or vapor product”.

SECTION 7. Tennessee Code Annotated, Section 39-17-1504, is further amended by deleting the language “tobacco products” wherever it appears and substituting the language “tobacco or vapor products”.

SECTION 8. Tennessee Code Annotated, Section 39-17-1504(e), is amended by deleting the subsection.

SECTION 9. Tennessee Code Annotated, Section 39-17-1505(a), is amended by deleting the subsection and substituting the following:

It is unlawful for a person who has not attained eighteen (18) years of age to possess either a tobacco or vapor product, to purchase or accept receipt of either product, or to present or offer to any person any purported proof of age that is false, fraudulent, or not actually that person’s own for the purpose of purchasing or receiving any tobacco or vapor product.

SECTION 10. Tennessee Code Annotated, Section 39-17-1505(b), is amended by deleting the word “tobacco”.

SECTION 11. Tennessee Code Annotated, Section 39-17-1505(c), is amended by deleting the word “tobacco”.

SECTION 12. Tennessee Code Annotated, Section 39-17-1505(f), is amended by deleting the subsection and substituting the following:

(f) It is not unlawful for a person under eighteen (18) years of age to handle or transport:

(1) Tobacco, tobacco products, or vapor products as a part of and in the course of the person’s employment; provided, that the person is under the supervision of another employee who is at least twenty-one (21) years of age; or

(2) Tobacco or vapor products as part of an educational project that has been developed by the person for entry and display at an agricultural fair or other agricultural competition or event.

SECTION 13. Tennessee Code Annotated, Section 39-17-1509(a), is amended by deleting the subsection and substituting the following:

The department shall enforce this part in a manner that may reasonably be expected to reduce the extent to which tobacco and vapor products are sold or distributed to persons under eighteen (18) years of age, and shall conduct random, unannounced inspections at locations where any tobacco or vapor product is sold or distributed to ensure compliance with this part.

SECTION 14. Tennessee Code Annotated, Section 39-17-1509(c), is amended by deleting the subsection and substituting the following:

A person who demanded, was shown, and reasonably relied upon proof of age is not liable for a civil penalty for a violation of § 39-17-1504 or § 39-17-1507. In the case of distribution of any tobacco or vapor product by mail, a person who obtained a statement from the addressee that the addressee is at least eighteen (18) years of age

is not liable for a civil penalty so long as that distributor of the tobacco or vapor product informed the addressee that § 39-17-1504 prohibits the distribution of tobacco and vapor products to a person under eighteen (18) years of age.

SECTION 15. Tennessee Code Annotated, Section 39-17-1509(d), is amended by deleting the language “at which tobacco products are sold” wherever it appears and substituting the language “at which any tobacco or vapor product is sold”.

SECTION 16. Tennessee Code Annotated, Section 39-17-1603(9), is amended by deleting the subdivision and substituting the following:

(9) “Smoking”:

(A) Means the burning of a lighted cigarette, cigar, pipe, or any other substance containing tobacco; and

(B) Does not include the creation of vapor from the use of a vapor product as defined in § 39-17-1503.

SECTION 17. Tennessee Code Annotated, Section 39-17-1802(16), is amended by deleting the subdivision and substituting the following:

(16) “Smoking”:

(A) Means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form; and

(B) Does not include the creation of vapor from the use of a vapor product as defined in § 39-17-1503; and

SECTION 18. Tennessee Code Annotated, Section 62-38-203(b), is amended by deleting the language “No smoking or eating shall take place in the tattoo work area” and substituting the language “No smoking or eating shall take place in the tattoo work area;

provided, “smoking” does not include the creation of vapor from the use of a vapor product as defined in § 39-17-1503”.

SECTION 19. Tennessee Code Annotated, Title 39, Chapter 17, Part 15, is amended by adding the following language as a new section:

(a) As used in this section, “liquid nicotine container” means a bottle or other container that contains liquid nicotine or any other substance containing nicotine, where the liquid or other substance is sold, marketed, or intended for use in a vapor product.

(b) Unless specifically preempted by federal law, a liquid nicotine container used in conjunction with a vapor product that is sold at retail in this state shall satisfy the child-resistant effectiveness standards under 16 CFR 1700.15(b)(1) when tested in accordance with the requirements of 16 CFR 1700.20.

SECTION 20. This act shall take effect upon becoming a law, the public welfare requiring it.